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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,874	11/24/2003	Simon Brain	7114	5117
55740	7590	01/25/2007	EXAMINER	
GAUTHIER & CONNORS, LLP 225 FRANKLIN STREET SUITE 2300 BOSTON, MA 02110			GARCIA, ERNESTO	
			ART UNIT	PAPER NUMBER
			3679	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/25/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/720,874	BRAIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ernesto Garcia	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 November 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 3-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 3-5 is/are rejected.
- 7) Claim(s) 4 and 5 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 November 2006 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Drawings*

The drawings were received on November 8, 2006. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 112***

Claims 1 and 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, there is still an inconsistency between the language in the preamble and certain portions in the body of the claim, thereby making the scope of the claims unclear. The preamble clearly indicated that the locking mechanism is "for use in combination and for preventing unintended disconnection of a generally horizontal beam from a vertical support post ... and said horizontal beam having an end flange ... with lugs". However, the body of the claim positively recites "the end flange" of the

horizontal beam, e.g., "said tabs being receiving in and deformed into interlocked engagement within slots in said flange" (lines 15-16), and "a pin projecting from the mid-portion of said plate through a second opening in said flange above one of said lugs and beyond the front face of said flange" (lines 17-18), which indicates that the claims are being drawn to a combination of the "locking mechanism" and "the end flange" of the horizontal beam. Accordingly, is the combination or subcombination being claimed? Appropriate correction, clarification, or both is required. For purposes of this Office action, the examiner has considered the locking mechanism alone.

Regarding claims 3-5, the claims depend from claim 1 and therefore are indefinite.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al., 4,342,166.

Regarding claim 1, Johnson et al. discloses, in Figures 1 and 3, a locking mechanism comprising resilient plate 50, a connecting means 13 for securing the plate 50 to a back face of a flange, and a pin 12. The connecting means comprises tabs 13 on the plate 11. The pin 12 projects from a mid-portion of the plate 11. The plate 50 is resiliently deflectable.

Regarding claim 3, the tabs 13 are able to move.

Regarding claim 4, Seize discloses the plate 50 is provided with at least one peripheral deformation 51 (Fig. 7) configured to coact with the back face of the flange in defining a pocket.

#### ***Allowable Subject Matter***

Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim 5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 4, the prior art of record does not disclose or suggest a locking mechanism comprising a plate provide with at least one peripheral deformation. The closest prior art, Johnson et al., 4,342,166, requires no peripheral deformation since the curved raised ends of the plate allow insertion of a screwdriver to pry the pin; and,

regarding claim 5, this claim depends from claim 4.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 have been considered but are moot in view of the new ground(s) of rejection. In particular, note the 35 U.S.C. 112(2<sup>nd</sup>) rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. In particular, the new recitations "for use in combination with and for" in claim 1, lines 1-2, and "said locking mechanism comprising: a resilient plate ... and a pin projecting from the mid-portion of said plate" (claim 1, lines 11-17). Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-282-7083. The examiner can normally be reached from 9:30-6:00. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EJ.

E.G.

January 19, 2007



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600